

R E M A R K S

- Prior to the present amendment:
 - Claims **1 – 33** were pending.
- Upon entry of the present amendment, which is respectfully requested for the reasons set forth below:
 - Dependent Claims **4, 14, 22 and 28** will be cancelled;
 - Independent Claims **1, 10, 19 and 26** will be amended; and
 - The specification will be amended to correct an inadvertent error in the wording of a priority claim to a prior application.

I. Double Patenting

Claims **1 – 33** stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 26 of U.S. Patent No. 6,676,126 (the parent application of which the present application is a continuation). Applicants have filed an appropriate terminal disclaimer herewith.

II. Claim Rejection – Section 101

Claims **19 – 33** stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Specifically, it has been asserted that these claims are claims directed to “mental steps.”

Applicants respectfully traverse this rejection on the grounds that the §101 rejection is based on an improper test for statutory subject matter. The proper legal test for the presence of statutory subject matter is only that a claimed process or apparatus produce a “useful, concrete and tangible result.” State Street Bank & Trust Co. v. Signature Fin. Group, Inc., 149 F.3d 1368, 1375, 47 USPQ2d 1596, 1602 (Fed. Cir. 1998), cert. denied, 525

U.S. 1093, 142 L.Ed.2d 704, 119 S.Ct. 851 (1999). Nevertheless, Applicants have amended Independent claim **19** as follows:

- *generating, on a display of an electronic device and via a processor of the electronic device, a pattern of nodes in a play area of the simulated scratch-lottery ticket*

The above amendment makes it clear that the step of generating is not a mental step but is rather performed via a processor of an electronic device and further involves generating a pattern on a display of the electronic device. Thus, Applicants respectfully submit that the amendment to claim **19** renders the claim patentable under the Examiner's proposed test for statutory subject matter. Further, as each of claims **20 – 33** include by reference each of the limitations of claim **19**, the amendment to claim **19** effectively amends the scope of claims **20 – 33** such that these claims now also satisfy the Examiner's proposed test for statutory subject matter. Applicants note that the amendment to claim **19** has been made solely to expedite allowance of the pending claims.

III. Claim Rejections – Sections 102 and 103

Claims **1, 2, 10, 11, 19, 20 and 26** stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,888,980 to Dingledine (“Dingledine” herein).

Claims **3, 8, 9, 17, 18, 13, 21, 27, 32 and 33** stand rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 5,092,598 to Kamille (“Kamille” herein).

Additionally, the Examiner has indicated that the feature of claims **4 – 7, 14 – 16, 22 – 25 and 28 – 31** having to do with associating a prize with a

continuous path is not taught or suggested by any of the references of record, alone or in combination. The Examiner has also indicated that the feature of claim 12 (bar code in each node) is not taught or suggested by any of the references of record, alone or in combination.

Applicants do not provide arguments herein against either the §102 or the §103 rejections. Rather, based on the above indications by the Examiner of allowable subject matter, Applicants have amended the pending claims as follows, such that each pending claim now includes a feature indicated by the Examiner as allowable:

- Independent claim 1 has been amended to include the limitation of claim 4 that the Examiner indicated is allowable (and claim 4 has accordingly been cancelled);
- Independent claim 10 has been amended to include the limitation of dependent claim 14 that the Examiner indicated is allowable (and claim 14 has accordingly been cancelled);
- Independent claim 19 has been amended to include the limitation of dependent claim 22 that the Examiner indicated is allowable (and claim 22 has accordingly been cancelled);
and
- Independent claim 26 has been amended to include the limitation of dependent claim 28 that the Examiner indicated is allowable (and claim 28 has accordingly been cancelled).

In light of the above amendments, Applicants respectfully submit that each pending claim now includes a feature indicated by the Examiner as allowable and thus each of the pending claims is allowable (since all claims that will remain pending and that have not been explicitly amended incorporate by reference one of the allowable features).

Applicants have made the above amendments solely to expedite allowance of the pending claims. Applicants do not intend to imply by these amendments an agreement with the Examiner's interpretations of the Dingledine reference or the Kamille reference or an acquiescence to either of the rejections. Applicants intend to pursue the subject matter of the claims as pending prior to the amendments made herein in a continuing application.

C O N C L U S I O N

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Magdalena M. Fincham at telephone number (203) 461-7041 or via electronic mail at mfincham@walkerdigital.com.

Petition for Extension of Time to Respond

Applicants hereby petition for a one-month extension of time with which to respond to the Office Action. If an additional extension of time is required in addition to that requested, please grant a petition for that extension of time which is required to make this Response timely.

Please charge as follows:

Charge: \$60.00

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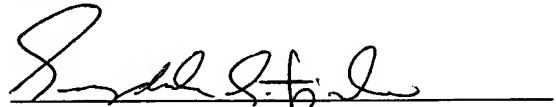
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Charge any additional fees or credit any overpayment to the same account.

A duplicate copy of this authorization is enclosed for such purposes.

April 14, 2005
Date

Respectfully submitted,



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